

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

**Caption in Compliance with D.N.J. LBR
9004-1(b)**

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In re

Bed Bath & Beyond, Inc.

Debtor.

Case No. 23-13359 (VFP)

Chapter 11

**JOINT MOTION OF TEXAS TAXING AUTHORITIES TO COMPEL PAYMENT OF
REMAINING AMOUNTS DUE ON YEAR 2022 AD VALOREM BUSINESS
PERSONAL PROPERTY TAXES**

TO: THE HONORABLE VINCENT F. PAPALIA,
UNITED STATES BANKRUPTCY JUDGE,

The **Texas Taxing Authorities**,¹ by and through their counsel, hereby file this Joint Motion to
Compel Payment of Remaining Amounts Due on Year 2022 Ad Valorem Business Personal Property
Taxes and would respectfully show as follows:

¹ For purposes of this pleading, the Texas Taxing Authorities are defined as include all taxing authorities represented by Linebarger Goggan Blair & Sampson, Perdue Brandon Fielder Collins & Mott, and McCreary Veselka Bragg & Allen including but not limited to: Bexar County, Cameron County, Cypress-Fairbanks Independent School District, Dallas County, City of El Paso, Fort Bend County WCID #02, Fort Bend County, City of Frisco, Grayson County, Gregg County, Harris County, Hidalgo County, Jefferson County, Lewisville Independent School District, City of McAllen, McLennan County, City of Mesquite, Montgomery County, Nueces County, Parker CAD, Rockwall CAD, San Marcos CISD, Smith County, Tarrant County, Tom Green CAD, Victoria County, Wichita County Tax Office, Randall County Tax Office, Brazoria County, Brazoria County Special Road & Bridge, Alvin Independent School District, Alvin Community College, Brazoria County Drainage District #4, Pearland Municipal Management, Brazoria Municipal Utility District #06, Woodlands Metro Municipal Utility District, Woodlands Road Utility District, Clear Creek Independent School District, Humble Independent School District, Pasadena Independent School District, Spring Branch Independent School District, City of Houston, Lubbock Central Appraisal District, Midland County, City of Lake Worth, Crowley Independent School District, Grapevine-Colleyville Independent School District, Frisco Independent School District, Plano Independent School District, Bell County Tax Appraisal District, Bowie Central Appraisal District, Brazos County, Denton County, Guadalupe County, Hays County, Midland Central Appraisal District, Taylor County Central Appraisal District, City of Waco, Waco Independent School District and Williamson County.

1. The Debtors commenced this case on April 23, 2023, by filing Chapter 11 voluntary petitions in this Court.

2. On September 12, 2023, the plan confirmation hearing was held. At the hearing, counsel for the Debtors stated on the record that the Debtors would pay the claims of the Texas Taxing Authorities as to the 2022 tax liabilities.

3. On September 14, 2023, the Court entered *Findings of Fact, Conclusions of Law, and Order (I) Approving the Disclosure Statement on a Final Basis and (II) Confirming the Second Amended Joint Chapter 11 Plan of Bed Bath & Beyond Inc. and its Debtor Affiliates* [Doc No. 2172]. Specific provisions regarding the Texas Taxing Authorities are found in paragraph 141 on page 67 of the Order as follows:

For the avoidance of doubt, any Claims of Texas Taxing Authorities (the “Texas Tax Claims”), unless subsequently disallowed, shall constitute Other Secured Claims entitled to Class 2 treatment under the Plan, and nothing in this Confirmation Order or the Plan shall impair or otherwise alter the rights and entitlements of the Texas Taxing Authorities under the Final DIP Order, including as set forth in paragraphs 61 and 62 of the Final DIP Order. The Debtors and Texas Taxing Authorities shall, within five Business Days of entry of the Confirmation Order, mutually agree to a holdback amount from the Combined Reserve, which amount shall be between \$500,000 and \$2.8 million, for the payment of Texas Tax Claims, with all parties’ rights reserved as to the ultimate amount of such Texas Tax Claims. If the Debtors and Texas Taxing Authorities have not agreed to a holdback amount within five Business Days of entry of the Confirmation Order, the Debtors and Texas Taxing Authorities agree to jointly seek a determination of such amount from the Bankruptcy Court before the Effective Date. The Texas Taxing Authorities may amend their respective proofs of claim once the current year’s ad valorem taxes are actually assessed without further agreement with the Debtors or Wind-Down Debtors, as applicable, or leave of the Bankruptcy Court.

The Texas Tax Claims are Class 2 Other Secured Claims which are unimpaired under the confirmed Plan (see page 24 of the confirmed Plan, Doc No. 2160). Article VI E of the confirmed Plan (see page 40, Doc No. 2160) provides that a Holder of a Claim is entitled to post-petition interest if required by applicable bankruptcy law, except as provided in the Final DIP Order and DIP Documents. The claims of the Texas Taxing Authorities are over-secured, making the claims

entitled to interest under 11 U.S.C. §506(b) at the State statutory rate of 1% per month beginning on the petition date.

4. Shortly after confirmation, the Debtors remitted a portion of the 2022 Texas tax amounts due. They paid the base tax amounts but did not pay the pre-petition interest and penalties or post-petition interest. The 2022 Texas ad valorem taxes became delinquent pre-petition on February 1, 2023 pursuant to Texas Tax Code §31.02(a) and certain penalties and interest accrued on the 2022 taxes pursuant to Texas Tax Code §33.01. Those amounts are included in the Texas Taxing Authorities' timely filed claims.

5. Since mid-September 2023, the Texas Taxing Authorities have corresponded with Debtors' counsel multiple times attempting to resolve payment of the remaining amounts due on the 2022 taxes. The Texas Taxing Authorities provided the amounts due and wiring instructions, but the Debtors have failed to pay those amounts. The Texas Taxing Authorities have also corresponded with counsel for the Plan Administrator.

6. The November 2023 amounts to be paid to satisfy the remaining 2022 taxes due to the Texas Taxing Authorities, as defined herein, are:

- McCreary clients: \$165,358.16
- Perdue clients: \$108,079.95
- Linebarger clients: \$544,025.66

As stated above, additional interest accrues monthly, and the payoff amount increases accordingly.

WHEREFORE, the Texas Taxing Authorities, as defined herein, request that the Court order the Debtors or Plan Administrator, as applicable, to remit payment of the remaining amounts due on the 2022 taxes. Further, the Texas Taxing Authorities request such other and further relief to which they show themselves justly entitled.

Dated: November 6, 2023

Respectfully submitted,

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